

## **REMARKS**

Claims 8-23 and 25 are pending in the application and rejected. Claims 1-7 and 24 are withdrawn. Claims 8, 11 and 25 are rejected under 35 U.S.C. § 112. Claims 8-10 and 12-23 are rejected under 35 U.S.C. § 102(b), and Claims 11 and 25 are rejected under 35 U.S.C. § 103(a). Applicant respectfully traverses the foregoing rejections.

### **The Section 112 Rejections Should Be Withdrawn**

Claim 8 is rejected under 35 U.S.C. § 112 based on the assertion that the claim term “content” is unclear. Claim 8 recites a method of delivering content to an audience member. Specifically, the last step of the claim (as amended) is “delivering content to the audience member based on the segment identifier in response to receiving the second request.” The latest Office Action states that the term “content” was indefinite because it was unclear whether the delivered “content” is the “first website page” recited earlier in the claim or an advertisement. The phrase “first website page” has been replaced with the phrase “website page” as a result of the present amendment. Applicant will respond to the rejection despite this change in the claim language.

The term “content” used in Claim 8 is discussed at length in the specification, and is not unclear when read in light of the explanation provided in the specification. Paragraph 2 of the present application states that the delivery of “content” to selected audience members may be carried out using the Internet, although the invention is not limited to delivery of content via this means. It should be clear from this portion of the specification alone that the intended meaning of “content” is broad and not intended to be limited to the delivery of web pages. The delivered content may be a subsequently delivered website page, an advertisement, some other Internet communication, or any other communication that is delivered to the audience member that is based on and

results from association of the audience member with a segment of audience members as specified in the remainder of Claim 8. Reconsideration of the Section 112 rejection of Claim 8 is requested in view of the foregoing.

Claim 11 is rejected under 35 U.S.C. § 112 based on the assertion that Claim 8 recites the step of associating the audience member with profile data based on the presence of a unique identifier in a first website cookie, while Claim 11, which depends from Claim 8, recites the step of providing the computer with a cookie associated with the primary website based on the initial “absence” of a unique identifier in the first website cookie. The implied recitation of the presence of the unique identifier in the base claim and the express recitation of the absence of the unique identifier in the dependent claim are asserted to render the later claim unclear. Other asserted inconsistencies in the use of claim terms in Claims 8 and 11 are also identified as basis for the Section 112 rejection.

Claims 8 and 11 have been amended to address the foregoing basis for rejection of Claim 11. Namely, Claim 8 now recites the terms consistently with its dependent claims. Claim 11 is amended to delete the reference to the “initial absence of a unique identifier” in a cookie. Reconsideration of the Section 112 rejections of Claim 11 are solicited in view of the above-noted amendments.

Claim 25 is rejected under 35 U.S.C. § 112 based on the assertion that it is unclear whether or not several claim terms are intended to be the same in Claims 25 and 8, which are related as dependent and base claims, respectively. The terms “audience member,” “profile data,” and “content” are intended to be the same in both claims. A minor amendment has been made to Claim 25 to make it clear that the term “profile data” is intended to be the same in both claims. Applicant asserts that no

amendment is required to confirm that the claim terms “audience member” and “content” are the same in both claims. The assertion that the meaning of the term “content” is unclear is addressed in the above paragraph concerning the section 112 rejection of Claim 8. Reconsideration of the Section 112 rejection of Claim 25 is respectfully requested.

### **The Section 102 and 103 Rejections Should Be Withdrawn**

Claims 8-10 and 12-23 are rejected under 35 U.S.C. § 102 as being anticipated by Merriman et al., U.S. Patent No. 5,948,061 (hereinafter “Merriman”). Claims 11 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Merriman in view of do Rosario Botelho et al., U.S. Patent Pub. No. 2002/0069105 (hereinafter “do Rosario Botelho”) or in view of Official Notice. Claims 8 and 19 are independent claims, and Claims 9-18, 20-23 and 25 depend directly or through intervening claims from one or the other of the two independent claims.

Claim 8 recites, *inter alia*, the steps of (i) “associating the audience member with a segment of audience members based on the profile data,” (ii) “transmitting a segment-targeting cookie, which includes a segment identifier for the segment of audience members, to the computer associated with the audience member,” and (iii) “delivering content to the audience member based on the segment identifier.” Similarly, Claim 19 recites, *inter alia*, the steps of (i) “associating the audience member with a segment of audience members based on the profile data,” (ii) “identifying the segment of audience members with a segment identifier included in a segment-targeting cookie,” (iii) “transmitting the segment-targeting cookie to a computer associated with the audience

member,” and (iv) “delivering content to the audience member based on the segment identifier.” None of these limitations is disclosed in Merriman.

The latest Office Action asserts that Merriman discloses the step of associating the audience member with a segment of audience members based on the profile data at column 5, lines 50-63 and column 6, lines 6-11. Perusal of Merriman confirms, however, that neither of these portions of Merriman, nor any other portion, discloses the step of associating an audience member with a segment of audience members. Instead, the referenced portions of Merriman actually disclose that an ad server may obtain a variety of information about one particular user, and that this information may be stored in a database to be used to select an advertisement to be sent to the user. In Merriman, the user is not associated with a segment of other users. The method described in Merriman for targeting advertisements to a user does so on an individual user-by-user basis, not for a group or segment of users. As a result of failing to disclose the step of associating an audience member with a segment of other audience members, Merriman also necessarily fails to disclose the steps of identifying a segment of audience members or users with a “segment identifier” in a “segment-targeting cookie,” and/or transmitting the “segment-targeting cookie” to the user’s computer because the later two steps require the step of associating an audience member with a segment of audience members as a predicate. Merriman also fails to disclose the step of delivering content to the audience member based on a segment identifier in a segment-targeting cookie. In view of the foregoing distinctions between Claims 8 and 19 and Merriman, Applicant respectfully requests that the rejections of Claims 8-23 and 25 be withdrawn.

Applicant also wishes to point out that various of the dependent Claims 9-18, 20-23 and 25 are patentable for reasons independent of those set forth above. For example, Merriman fails to disclose the steps of determining the absence of a cookie with a unique identifier for the audience member and setting a unique identifier in a second cookie as a result, which are recited in Claims 9-10. Merriman also fails to disclose the step of defining a segment of audience members by rules that recognize any common affinity between two or more audience members recited in Claim 15. Merriman further fails to disclose the steps of comparing the profile data of a plurality of audience members and forming a segment of audience members based on the comparison which are recited in Claims 17 and 21. Accordingly, the rejection of all pending claims, including but not limited to the foregoing specified dependent claims, should be withdrawn.

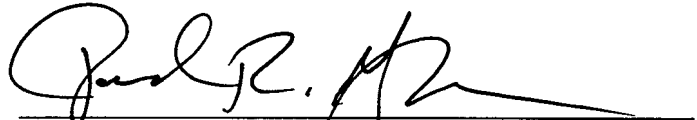
Applicant further traverses the rejection of Claim 25 based on the Examiner's taking Official Notice that it is old and well known to provide an audience member with access to a second digital medium and to share profile data in common between the two mediums. If this claim limitation is old and well known, it should be identified in the prior art. The step is not a step that would be considered to be so old or well known as to qualify for being relied upon under the Official Notice provisions of the rules. Applicant respectfully requests that the Examiner identify with particularity the prior art in which this aspect of the claimed invention is disclosed.

Should the Office believe anything further is required to place the application in condition for allowance the Examiner is invited to contact Applicant's representative at the telephone number listed below. A one-month extension of time fee is believed to be required for consideration of the present response. The Director is hereby authorized to

charge the fee for a one-month extension of time and any deficiency or credit any overpayment to deposit account number 03-2469. Moreover, if the deposit account contains insufficient funds, the Director is hereby invited to contact the undersigned to arrange payment.

Respectfully submitted,

Date: February 19, 2008



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